

## Bureau of Alcohol, Tobacco and Firearms, Treasury

## § 200.76

judge or (b) after issuance by the administrative law judge of his recommended decision and prior to the director of industry operations' order disapproving the application, the director of industry operations shall, by order, dismiss the proceeding.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-199, 50 FR 9197, Mar. 6, 1985; T.D. ATF-374, 61 FR 29957, June 13, 1996]

### § 200.71 Adjudication based upon written submissions.

The respondent may waive the hearing before the administrative law judge, and stipulate that the matter will be adjudicated by the director of industry operations based upon written submissions. Written submissions may include stipulations of law or facts, proposed findings of fact and conclusions of law, briefs, or any other documentary material. The pleadings together with the written submissions of both the attorneys for the Government and the respondent shall constitute the record on which the initial decision shall be based. The election to contest the citation without a hearing under this section does not affect the respondent's right to appeal.

[T.D. ATF-244, 51 FR 45763, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

### SURRENDER OF PERMIT

#### § 200.72 Before citation.

If a respondent surrenders the permit before citation, the director of industry operations may accept the surrender. But if the evidence, in the opinion of the director of industry operations, warrants citation for suspension, revocation or annulment, the surrender shall be refused and the director of industry operations shall issue the citation.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### § 200.73 After citation.

If a respondent surrenders the permit after citation and prior to an initial decision, the director of industry operations may accept the surrender of the permit and dismiss the proceeding as

moot. If, however, in the opinion of the director of industry operations, the evidence is such as to warrant suspension, revocation or annulment, as the case may be, the surrender of the permit shall be refused, and the proceeding shall continue.

[T.D. ATF-244, 51 FR 45764, Dec. 22, 1986, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

### MOTIONS

#### § 200.74 General.

All motions shall be made and addressed to the officer before whom the proceeding is pending, and copies of all motion papers shall be served upon the other party or parties. Such officer may dispose of any motion without oral argument, but he may, if he so desires, set it down for hearing and request argument. He may dispose of such motion prior to the hearing on the merits or he may postpone the disposition until the hearing on the merits. No appeal may be taken from any ruling on a motion until the whole record is certified for review. Examples of typical motions may be found in the Rules of Civil Procedure referred to in § 200.2.

#### § 200.75 Prior to hearing.

All motions which should be made prior to the hearing, such as motion directed to the sufficiency of the pleadings or of preliminary orders, shall be filed in writing with the director of industry operations issuing the citation or the administrative law judge if the matter has been referred to him, and shall briefly state the order or relief applied for and the grounds for such motion, and shall be filed within 15 days after service of the citation.

[21 FR 1441, Mar. 6, 1956. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-374, 61 FR 29957, June 13, 1996]

#### § 200.76 At hearing.

Motions at the hearing may be made in writing to the administrative law judge or stated orally on the record.